



May 23, 2000

Mr. Paul F. Wieneskie  
Cribbs & McFarland  
P.O. Box 13060  
Arlington, Texas 76094-0060

OR2000-2018

Dear Mr. Wieneskie:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 135530.

The City of Euless (the "city"), which you represent, received a request for a copy of the arrest warrant and other documents related to an incident that occurred at the Winn-Dixie supermarket on March 15, 2000. You claim that a portion of the information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

We begin by addressing your concern as to whether the submitted information constitutes all of the information responsive to the request at issue. It is well-established that a governmental body may not disregard a request for records made pursuant to the Public Information Act merely because a requestor does not specify the exact documents desired. A governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision Nos. 561 at 8-9 (1990), 87 (1975). Section 552.222(b) of the Government Code provides that if a governmental body is unable to determine the nature of the records being sought, it may ask the *requestor* to clarify the request so that the desired records may be identified.

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<sup>1</sup>The city also states that it has released copies of the arrest incident narrative and the arrest warrant, absent the supporting affidavit.

However, section 552.222(b) does not stand for the proposition that a request may be denied merely because it seeks a broad range of documents. The purpose of this section is to authorize a dialogue between *the governmental body and the requestor* regarding the scope of the records request.<sup>2</sup> Open Records Decision No. 663 (1999). When a requestor makes a vague or broad request, the governmental body should make a good faith effort to advise the requestor of the type of documents available so that the requestor may narrow or clarify the request. *See id.* at 5. In your brief, you ask this office to determine the “scope” of this request or, in other words, to determine exactly what information the requestor was seeking through her request. It is impossible for us to intelligently rule on what this individual was thinking at the time she made this request. We can only apply the Act to the documents you have submitted.<sup>3</sup>

With that in mind, we address whether the submitted offense report narrative is excepted from disclosure under section 552.108. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure “if release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). You do not state which subsection of 552.108 applies to the offense report narrative. Based on your assertion that this case remains “open,” we assume that you are seeking to withhold this document under section 552.108(a)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why section 552.108 is applicable. *See* Gov’t Code §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that, if the requestor is seeking the information from the offense report, the release of this information would interfere with the continued investigation and prosecution of this offense. Because the investigation is pending, we believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.* Thus, you may withhold most of the offense report narrative under section 552.108(a)(1).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Basic front page information includes a detailed description of the offense; therefore, the city must release a portion of the offense report narrative so as

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<sup>2</sup>Section 552.222(b) also limits the nature of the inquiries by the governmental body to those regarding the requested documents themselves. This section prohibits the governmental body from inquiring into the purpose for which the requestor seeks the records.

<sup>3</sup>We note, however, that once a probable cause affidavit supporting an arrest warrant has been filed with a court, it is subject to required public disclosure. *See* Gov’t Code § 552.022(a)(17); *see also Star Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with a court are generally considered public).

to reveal a detailed description of the offense. *See* Open Records Decision No. 127 at 4-5 (1976). Witness identities are not generally considered to be basic information. *Id.* We note that you have the discretion to release all or part of the remaining narrative that is not otherwise confidential by law.<sup>4</sup> Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).


If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

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<sup>4</sup>Please note that section 552.130 of the Government Code excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, you *must withhold* all Texas license plate numbers, VIN numbers, and driver's license numbers from public disclosure.

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford".

Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/ljp

Ref: ID# 134430

Encl. Submitted documents

cc: Mani Ouanephongchaleun  
1504 Aransas Drive  
Eules, Texas 76039  
(w/o enclosures)